

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF EDUCATION**

B.D.J. v. Robbinsdale Public School District 281

**PROTECTIVE ORDER**

The above-entitled matter came before Administrative Law Judge Eric L. Lipman upon the Parent's request for the production of government data that are classified as nonpublic data under Minn. Stat. §§ 13.32 and 13.43 (2006). Because this data is otherwise protected by the Minnesota Government Data Practices Act (Minn. Stat. § 13.01 *et seq.*), the Parent seeks an Order authorizing limited disclosure and uses of these materials for this litigation.

The Administrative Law Judge finds that the entry of a Protective Order is appropriate. Accordingly,

**IT IS HEREBY ORDERED THAT:**

1. "Document" as used herein shall have all of the meanings set forth in Rule 34.01 of the Minnesota Rules of Civil Procedure. This Order shall apply to documents and other data that are nonpublic or confidential pursuant to the Minnesota Government Data Practices Act that will be provided to counsel in reliance on this Order, and to all documents and data which the Administrative Law Judge may order in the future to be provided to counsel pursuant to Minn. Stat. § 13.03 (2006). Hereinafter, such information shall be referred to as "confidential information."

2. Confidential information provided pursuant to this Order shall be conspicuously marked as "Confidential" by a stamp or other similar means.

3. Confidential information shall be used only for purposes of this litigation and, except as provided in Paragraph 4, shall not be disclosed to any person.

4. Until further Order of the Administrative Law Judge, such documents and copies, the information contained therein, and information obtained during the course of discovery, wherein responses are made upon confidential information or documents marked "Confidential," may only be divulged as follows:

- a. To the Parent and her Advocate.
- b. To counsel of record, and their employees and agents whose assistance is necessary to conduct this litigation.

- c. Confidential information may also be divulged to: witnesses, stenographic reporters engaged for depositions or other proceedings necessary to conduct this action; neutrals conducting mediations or other forms of alternative dispute resolution; such persons as counsel shall mutually consent to in writing or on the record before the proposed disclosure, where such person signs an Affidavit of Confidentiality (as in Attachment A) prior to disclosure; to the Administrative Law Judge and to staff of the Office of Administrative Hearings, all of whom shall be bound by this Protective Order.
- d. Confidential information and documents marked “confidential” may be used in connection with the testimony of any person at deposition or hearing, provided that counsel for the party providing the documents and information designated confidential may assert the protection of this Order at any deposition, and, if such protection is asserted, the deponent must be advised of the terms of this Order and agree on the record to abide by such terms. If the deponent refuses to abide by the terms of this Order and the party providing the document and information designated confidential refuses to withdraw its assertion of confidentiality, the party seeking to use the confidential information shall have the right to suspend the deposition and bring a motion before the Administrative Law Judge seeking a ruling on the issue. The parties agree that the confidential information in question shall not be used during the deposition pending a ruling from the Administrative Law Judge.
- e. With respect to confidential information, any person indicated on the face of a document or item to be its originator, author, or recipient of a copy thereof may be shown the same as long as they are informed that the document or information remains nonpublic or confidential.

5. All extracts and summaries of confidential information and documents designated as confidential shall be treated as protected in accordance with the provisions of this Order.

6. This Order does not preclude any party from asserting discovery objections allowed under the Contested Case Hearings procedures of Minnesota Rules, Part 1400 or the Minnesota Rules of Civil Procedure. This Order is entirely without prejudice to the right of any party to apply to the Administrative Law Judge for: (a) any further Protective Order relating to any confidential information; (b) an order compelling production of documents; (c) a modification of this Order, or (d) an Order permitting the disclosure of any documents or information beyond the terms of this Order.

7. Within ninety (30) days of the conclusion of the action, or upon the settlement of all issues in this lawsuit, all confidential documents produced under the provisions of this Order, including all copies, extracts, and summaries thereof, shall be destroyed or returned to the supplying party, except that counsel for the parties may retain one copy of documents subject to this Order for professional liability and professional responsibility purposes.

8. The terms of this Protective Order – including restrictions upon the communication or use of information or documents that have been designated as confidential – shall survive and remain in effect after the termination or settlement of this litigation.

**IT IS SO ORDERED.**

Dated: July 7, 2008

/s/ Eric L. Lipman

ERIC L. LIPMAN

Administrative Law Judge

**ATTACHMENT A**  
**AFFIDAVIT OF CONFIDENTIALITY**

In the matter of:     B.D.J. v. Robbinsdale Public School District 281,  
                              OAH Docket No. 8-1300-19715-9

The undersigned has read and understands the attached Order pertaining to **Confidential Documents and Information** in the above-referenced action and agrees:

1.     That he or she shall fully abide by the terms thereof; and
2.     That he or she shall return or destroy to the counsel of record identified below all **Confidential Documents and Information** in accordance with Paragraph 7 of the attached Order within ninety (30) days of notice of the final conclusions of this litigation.

\_\_\_\_\_  
Name of Affiant

\_\_\_\_\_  
Signature of Affiant

Return Records to:

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Notary Public